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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/099,659

03/15/2002

Jeffrey A. Tilton

25102A

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22889

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03/13/2009

OWENS CORNING
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EXAMINER

CHRISS, JENNIFER A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/099,659	Applicant(s) TILTON, JEFFREY A.	
	Examiner JENNIFER A. CHRISS	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 5 - 7, 9 - 19, 21 - 26 and 30- 35.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/J.A.C./

/Jennifer A Chriss/
Primary Examiner, Art Unit 1794

Continuation of 3. NOTE: The cancellation of the other members of the Markush group in claim 9 requires further search and/or consideration for the limitation of "said staple fibers are glass fibers".

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Nagata et al. does not expressly describe crystalline/semi-crystalline high melt bi-component fibers. Applicant argues that the Examiner's assertion that the bicomponent coPET/PET fibers of Nagata et al. are crystalline/semi-crystalline fibers is pure speculation and not supported by any evidence. Nagata et al. teach that the second fibers or Applicant's "high melt bicomponent fibers" (along with the first and third fibers) are preferably polyester-based fibers because of their high melting point of the crystals (column 3, lines 10 - 20). It should be noted that the second fibers are considered to be at least semi-crystalline as Nagata et al. mentions the high melting point of the crystals in the PET meaning that the fibers have some level of crystallinity. Applicant indicates that each and every example provided in Nagata et al. uses amorphous (that is, non-crystalline or semi-crystalline) fibers. Applicant appears to be equating amorphous to semi-crystalline in their arguments. According to page 3, 6 and 11 of Applicant's Specification, Applicant discusses bicomponent fibers referred to as crystalline or semi-crystalline which have a melt flow temperature of generally about 150 to 180 degrees C and bi-component fibers referred to as crystalline/semi-crystalline which have a melt temperature of generally about 150 to 180 degrees C. Therefore, the Examiner interprets crystalline/semicrystalline to mean crystalline or semi-crystalline. The Examiner submits that based on Nagata's comments regarding crystals of PET, the fibers would be at least semi-crystalline as required by the claim. It should be noted that the claims do not require a particular level of semi-crystallinity, only that they are crystalline or semi-crystalline which the Examiner submits is met by the prior art. Furthermore, it should be noted that one is not limited to the examples of the disclosure when formulating a rejection. Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). The Examiner submits that the anticipation and obviousness rejection over Nagata et al. and thus is maintained.